

California Regional Water Quality Control Board  
Santa Ana Region

March 15, 2002

ITEM: 21

SUBJECT: Executive Officer's Report

DISCUSSION:

1. **Proposition 13 (Prop. 13) Grant Process Update** – In December 2001, through a direct mailing and via the Internet, the SWRCB announced the availability of \$82 million in Prop. 13 water quality/watershed grants, and solicited concept proposals for grant projects. SWRCB and Regional Board staff conducted workshops on the grant application process in early January, including two in the Santa Ana Region that brought in nearly 50 guests. Requests for grant concept proposals for the three funding programs administered by the SWRCB (the Watershed Protection, Nonpoint Source Pollution (NPS) Control, and Coastal NPS Control Programs) and the two programs jointly administered by the SWRCB and CALFED (Watershed Program and Drinking Water Program) were due at the SWRCB on February 1, 2002. Some 560 eligible concept proposals were received statewide. Approximately 65 concept proposals were submitted for the Santa Ana Region.

Unlike last year's Prop. 13 grant application process, in which full proposals were solicited from all interested applicants, this year's process includes an initial screening step. For the initial screening, applicants are required to submit a two page concept proposal form, a two page project summary, and a one page map. (Applicants for Watershed Protection Program funding have some additional requirements.) Staff will screen the concept proposals, and only those applicants submitting concept proposals that conform with the specific provisions of the funding programs (i.e., NPS, Watershed Protection, etc.) will be invited to submit full proposals. This is being done to streamline the review process and to reduce the amount of staff resources needed to screen and review full proposals from all applicants. This should also benefit applicants by reducing the amount of effort needed to apply; a full proposal will only be solicited from those applicants with strong projects that will meet the goals and requirements of Prop. 13. Another important reason for limiting the number of proposals to the strongest projects is that the available funding for these programs is significantly less than the amount needed to fund all of the proposals.

The screening process for the concept proposals is now underway, and by March 25, 2002 (this and all other future dates are subject to adjustment), all applicants will have been notified by letter whether or not to submit a full proposal. Those not asked to submit proposals will be given the reasons why their project is not being considered for funding at this time.

Full proposals will be due to the SWRCB on May 29, 2002, and distributed for Regional Board staff review by June 7, 2002. Grant proposals will be subjected to a competitive scoring and ranking process. Staff proposes to bring the results of this scoring and ranking process to the Regional Board for consideration at the July 19, 2002 Board meeting. The region's list of ranked projects will then be forwarded to the Prop. 13 Working Group, and these projects will be ranked with all of the statewide projects by the working group. It is expected that the statewide recommendations will be developed by September 20, 2002. Final funding recommendations will be scheduled for consideration by the SWRCB at its October 2002 meeting.

- 2. EWMP Submittal Status Update** – In August 1999, the Board adopted Cease and Desist Order No. 99-65 for all dairies and related facilities. Order No. 99-65, in part, established a time schedule for the submittal of draft engineered waste management plans (EWMPs) for these facilities. Attachments A, B, C, and D were included in Order No. 99-65 which partitioned the dairies into four groups and set forth EWMP due dates for all groups. In July 2001, Order No. 99-65 was amended by Order No. 01-74 to revise the EWMP due dates.

The dairy facilities listed on Attachments A and B were required to submit their draft EWMPs by December 1, 2001. To date, we have received 82 percent of those EWMPs. Some dairies listed on Attachments C and D (due dates of June 1, 2002 and June 1, 2003, respectively) have submitted their EWMPs earlier than required. Reviewing the submitted plans in a timely manner is a high priority for Board staff. The table below represents the number of plans submitted and staff's progress in reviewing those plans.

	Attachments			
	A	B	C	D
Total dairy facilities	25	94	100	86
EWMPs submitted	23	74	39	28
Delinquent draft EWMPs	2	11	-0-	-0-
EWMPs reviewed & comments sent	21	52	4	5
Revised EWMPs received	3	5	1	-0-
Delinquent revised EWMPs	13	17	-0-	-0-
Approved EWMPs	1	2	1	-0-

The limited professional engineering resources available to the dairymen continues to be a factor contributing to the delinquency of EWMPs. For that reason, and also because of staff's backlog of unreviewed plans, we are not recommending any enforcement actions at this time. We will update the Board on our future progress in resolving this issue.

3. **Orange County MS4 Permit** – Four petitions were filed for State Board review of the Orange County MS4 Permit (Order No. R8-2002-0010), which the Board adopted on January 18, 2002. The petitions filed closely match many of the concerns expressed in previous comments. The four petitions are described below.

The petition filed by the County of Orange, the Orange County Flood Control District and the City of Garden Grove claims that: TMDL requirements must be limited by the Maximum Extent Practicable (MEP) standard; all discharge prohibitions must provide for compliance through the iterative BMP process; the inspection program for construction, industrial and commercial sites is unsupported by law, overly prescriptive and constitutes an unfunded mandate; the requirement to demonstrate legal authority with respect to storm water discharges must be limited to discharges associated with industrial activities; and, because several provisions in the Permit are not required by the Clean Water Act, compliance with all provisions and requirements of CEQA is required.

The petition filed by the Cities of Lake Forest, Stanton, Los Alamitos and the Los Angeles County Economic Development Corp. claims that: costs were not adequately considered; provisions regarding CEQA review/preparation and General Plans/zoning are outside the Regional Board's authority; the 'cause or contribute' language in the Receiving Water Limitations section and imposition of 'peak flow control' are arbitrary and capricious; the re-definition of 'Significant Re-development' to 5,000 square feet is invalid; the Permit constitutes an unfunded mandate; the Permit exceeds Regional Board authority by requiring permittees to assume inspection responsibilities for which the Regional Board is solely responsible; and, the Regional Board failed to comply with CEQA for those permit provisions not required by the Clean Water Act.

The petition filed by Natural Resources Defense Council (NRDC) for Defend the Bay and NRDC claims that: assurance does not exist that the Permit presently satisfies the MEP standard and will prevent regulated discharges from causing or contributing to violations of water quality standards; the Response to Comments failed to respond to factually and legally specific comments; the Permit fails to comply with the State Board's decision requiring a 'SUSMP' program; and the Regional Board acted without substantial evidence in the record, without proper findings, with findings not supported in the administrative record, and on the

basis of a facially inaccurate and misleading analysis comparing the Permit to those of neighboring jurisdictions.

The petition filed by Lawyers for Clean Water for Orange County CoastKeeper claims that: the Permit fails to prohibit illicit connections or non-storm water discharges to the sewer system; the Regional Board failed to adequately respond to comments made by the petitioner and other interested parties; the Permit fails to require compliance with the MEP standard; the Regional Board has vested itself with the power to authorize violations of water quality standards; and, the Regional Board acted without substantial evidence in the record, without proper findings, with findings not supported in the administrative record, and on the basis of a facially inaccurate and misleading analysis comparing the Permit to those of neighboring jurisdictions.

The County of Orange, NRDC, and Lawyers for Clean Water requested that their petitions be held in abeyance pending completion of administrative and judicial reviews of the MS4 Permits previously issued by the Los Angeles and San Diego Regional Boards. If the fourth petitioner agrees to have that petition also held in abeyance, the State Board would not proceed with review of the petitions at this time. We will keep you informed of the progress of this matter.